

Enforcement program by any fees collected under this section in accordance with § 304.50 of this chapter.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19650, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 56 FR 8004, Feb. 26, 1991; 64 FR 6249, Feb. 9, 1999; 68 FR 25303, May 12, 2003]

§ 302.80 Medical support enforcement.

(a) The State plan may provide that the IV-D agency will secure and enforce medical support obligations under a cooperative agreement between the IV-D agency and the State Medicaid agency.

(b) The State plan must provide that the IV-D agency shall secure medical support information and establish and enforce medical support obligations in accordance with the requirements contained in §§ 303.30 and 303.31 of this chapter.

(Approved by the Office of Management and Budget under control number 0960-0420)

[50 FR 41894, Oct. 16, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 54 FR 32309, Aug. 4, 1989; 61 FR 67241, Dec. 20, 1996; 64 FR 6249, Feb. 9, 1999]

§ 302.85 Mandatory computerized support enforcement system.

(a) *General.* The State plan shall provide that the State will have in effect a computerized support enforcement system:

(1) By October 1, 1997, which meets all the requirements of Title IV-D of the Act which were enacted on or before the date of enactment of the Family Support Act of 1988, Pub. L. 100-485, in accordance with §§ 307.5 and 307.10 of this chapter and the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States." This guide is available from the Child Support Information Systems Division, Office of State Systems, ACF, 370 L'Enfant Promenade, SW., Washington, DC 20447; and

(2) By October 1, 2000, which meets all the requirements of title IV-D of the Act enacted on or before the date of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, in accordance with §§ 307.5 and 307.11 of this

chapter and the OCSE guideline referenced in paragraph (a)(1) of this section.

(b) *Waiver*—(1) *Request for waiver.* The State may apply for a waiver of any condition for initial approval of an APD in § 307.15(b) of this chapter, or any system functional requirement in § 307.10 of this chapter, by the submission of a request for waiver under § 307.5 of this chapter.

(2) *Basis for granting waiver.* The Secretary will grant a State a waiver if a State demonstrates that it has an alternative approach to APD requirements or an alternative system configuration, as defined in § 307.1 of this chapter, that enables the State, in accordance with part 305 of this chapter, to be in substantial compliance with all other requirements of this chapter; and either:

(i) The waiver request meets the criteria set forth in section 1115(c)(1), (2) and (3) of the Act; or

(ii) The State provides written assurances that steps will be taken to otherwise improve the State's Child Support Enforcement program.

[57 FR 47002, Oct. 14, 1992, as amended at 61 FR 67241, Dec. 20, 1996; 63 FR 44814, Aug. 21, 1998]

PART 303—STANDARDS FOR PROGRAM OPERATIONS

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AUTHORITY: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

EDITORIAL NOTE: Nomenclature changes to part 303 appear at 64 FR 6249, Feb. 9, 1999.

SOURCE: 40 FR 27164, June 26, 1975, unless otherwise noted.

§ 303.0 Scope and applicability of this part.

This part prescribes:

- (a) The minimum organizational and staffing requirements the State IV-D agency must meet in carrying out the IV-D program, and
- (b) The standards for program operation which the IV-D agency must meet.

[41 FR 55348, Dec. 20, 1976, as amended at 54 FR 32309, Aug 4, 1989]

§ 303.1 Definitions.

The definitions found in § 301.1 of this chapter also are applicable to this part.

§ 303.2 Establishment of cases and maintenance of case records.

- (a) The IV-D agency must:

- (1) Make applications for child support services readily accessible to the public;

- (2) When an individual requests an application or IV-D services, provide an application to the individual on the day the individual makes a request in person or send an application to the individual within no more than 5 working days of a written or telephone request. Information describing available services, the individual's rights and responsibilities, and the State's fees, cost recovery and distribution policies must accompany all applications for services and must be provided to title IV-A, Medicaid and title IV-E foster care applicants or recipients within no more than 5 working days of referral to the IV-D agency; and

- (3) Accept an application as filed on the day it and the application fee are received. An application is a written document provided by the State which indicates that the individual is applying for child support enforcement services under the State's title IV-D program and is signed by the individual applying for IV-D services.

- (b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must, within no more than 20 calendar days of receipt of referral of a case or filing of an application for services under § 302.33, open a case by establishing a case record and, based on an assessment of the case to determine necessary action:

- (1) Solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information, if appropriate; and

- (2) If there is inadequate location information to proceed with the case, request additional information or refer the case for further location attempts, as specified in § 303.3.

- (c) The case record must be supplemented with all information and documents pertaining to the case, as well as all relevant facts, dates, actions taken, contacts made and results in a case.

[54 FR 32309, Aug. 4, 1989]

§ 303.3 Location of noncustodial parents.

(a) *Definition.* *Location* means information concerning the physical whereabouts of the noncustodial parent, or the noncustodial parent's employer(s), other sources of income or assets, as appropriate, which is sufficient and necessary to take the next appropriate action in a case.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must attempt to locate all noncustodial parents or sources of income and/or assets when location is necessary to take necessary action. Under this standard, the IV-D agency must:

(1) Use appropriate location sources such as the Federal PLS; interstate location networks; local officials and employees administering public assistance, general assistance, medical assistance, food stamps and social services (whether such individuals are employed by the State or a political subdivision); relatives and friends of the noncustodial parent; current or past employers; the local telephone company; the U.S. Postal Service; financial references; unions; fraternal organizations; and police, parole, and probation records if appropriate; and State agencies and departments, as authorized by State law, including those departments which maintain records of public assistance, wages and employment, unemployment insurance, income taxation, driver's licenses, vehicle registration, and criminal records and other sources;

(2) Establish working relationships with all appropriate agencies in order to utilize locate resources effectively;

(3) Within no more than 75 calendar days of determining that location is necessary, access all appropriate location sources, including transmitting appropriate cases to the Federal PLS, and ensure that location information is sufficient to take the next appropriate action in a case;

(4) Refer appropriate cases to the IV-D agency of any other State, in accordance with the requirements of § 303.7 of this part. The IV-D agency of such other State shall follow the procedures in paragraphs (b)(1) through (b)(3) of this section for such cases, as nec-

essary, except that the responding State is not required to access the Federal PLS under paragraph (b)(3) of this section;

(5) Repeat location attempts in cases in which previous attempts to locate noncustodial parents or sources of income and/or assets have failed, but adequate identifying and other information exists to meet requirements for submittal for location, either quarterly or immediately upon receipt of new information which may aid in location, whichever occurs sooner. Quarterly attempts may be limited to automated sources but must include accessing State employment security files. Repeated attempts because of new information which may aid in location must meet the requirements of paragraph (b)(3) of this section; and

(c) The State must establish guidelines defining diligent efforts to serve process. These guidelines must include periodically repeating service of process attempts in cases in which previous attempts to serve process have failed, but adequate identifying and other information exists to attempt service of process.

[54 FR 32310, Aug. 4, 1989, as amended at 55 FR 25840, June 25, 1990; 57 FR 28110, June 24, 1992; 57 FR 31235, July 14, 1992; 64 FR 6249, Feb. 9, 1999]

§ 303.4 Establishment of support obligations.

For all cases referred to the IV-D agency or applying under § 302.33 of this chapter, the IV-D Agency must:

(a) When necessary, establish paternity pursuant to the standards of § 303.5;

(b) Utilize appropriate State statutes and legal processes in establishing the support obligation pursuant to § 302.50 of this chapter.

(c) Periodically review and adjust child support orders, as appropriate, in accordance with § 303.8.

(d) Within 90 calendar days of locating the alleged father or noncustodial parent, regardless of whether paternity has been established, establish an order for support or complete service of process necessary to commence proceedings to establish a support order and, if necessary, paternity (or document unsuccessful attempts to serve process, in

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accordance with the State's guidelines defining diligent efforts under § 303.3(c)).

(e) If the court or administrative authority dismisses a petition for a support order without prejudice, the IV-D agency must, at the time of dismissal, examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future, and seek a support order at that time.

(f) Seek a support order based on a voluntary acknowledgment in accordance with § 302.70(a)(5)(vii).

[40 FR 27164, June 26, 1975, as amended at 50 FR 19650, May 9, 1985; 54 FR 32310, Aug. 4, 1989; 57 FR 30681, July 10, 1992; 59 FR 66250, Dec. 23, 1994]

§ 303.5 Establishment of paternity.

(a) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter in which paternity has not been established, the IV-D agency must, as appropriate:

(1) Provide an alleged father the opportunity to voluntarily acknowledge paternity in accordance with § 302.70(a)(5)(iii); and

(2) Attempt to establish paternity by legal process established under State law.

(b) The IV-D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the opinion of the IV-D agency, it would not be in the best interests of the child to establish paternity.

(c) The IV-D agency must identify and use through competitive procurement laboratories which perform, at reasonable cost, legally and medically acceptable genetic tests which tend to identify the father or exclude the alleged father. The IV-D agency must make available a list of such laboratories to appropriate courts and law enforcement officials, and to the public upon request.

(d)(1) Upon request of any party in a contested paternity case in accordance with section 466(a)(5)(B) of the Act, and subject to the provisions of paragraph (b) of this section, the IV-D agency shall require all parties to submit to genetic tests unless, in the case of an individual receiving aid under the

State's title IV-A, IV-E or XIX plan, or those recipients of the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 who are required to cooperate with the child support program, there has been a determination of good cause for refusal to cooperate under section 454(29) of the Act.

(2) A contested paternity case is any action in which the issue of paternity may be raised under State law and one party denies paternity.

(e)(1) Except as provided in paragraph (e)(3) of this section, the IV-D agency may charge any individual who is not a recipient of aid under the State's title IV-A or XIX plan a reasonable fee for performing genetic tests.

(2) Any fee charged must be reasonable so as not to discourage those in need of paternity establishment services from seeking them and may not exceed the actual costs of the genetic tests.

(3) If paternity is established and genetic tests were ordered by the IV-D agency, the IV-D agency must pay the costs of such tests, subject to recoupment (if the agency elects) from the alleged father who denied paternity. If a party contests the results of an original test, the IV-D agency shall obtain additional tests but shall require the contestant to pay for the costs of any such additional testing in advance.

(4) The IV-D agency must use any amount collected under paragraphs (e)(1) and (3) of this section that exceeds the costs of performing genetic tests to reimburse any fee paid under paragraph (e)(1) of this chapter.

(f) The IV-D agency must seek entry of a default order by the court or administrative authority in a paternity case by showing that process has been served on the defendant in accordance with State law, that the defendant has failed to respond to service in accordance with State procedures, and any additional showing required by State law, in accordance with § 302.70(a)(5)(viii).

(g) *Voluntary paternity establishment programs.* (1) The State must establish, in cooperation with hospitals, State

birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, a program for voluntary paternity establishment services.

(i) The hospital-based portion of the voluntary paternity establishment services program must be operational in all private and public birthing hospitals statewide and must provide voluntary paternity establishment services focusing on the period immediately before and after the birth of a child born out-of-wedlock.

(ii) The voluntary paternity establishment services program must also be available at the State birth record agencies, and at other entities designated by the State and participating in the State's voluntary paternity establishment program. These entities may include the following types of entities:

(A) Public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics), and private health care providers (including obstetricians, gynecologists, pediatricians, and midwives);

(B) Agencies providing assistance or services under Title IV-A of the Act, agencies providing food stamp eligibility service, and agencies providing child support enforcement (IV-D) services;

(C) Head Start and child care agencies (including child care information and referral providers), and individual child care providers;

(D) Community Action Agencies and Community Action Programs;

(E) Secondary education schools (particularly those that have parenthood education curricula);

(F) Legal Aid agencies, and private attorneys; and

(G) Any similar public or private health, welfare or social services organization.

(2) The hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must, at a minimum:

(i) Provide to both the mother and alleged father:

(A) Written materials about paternity establishment,

(B) The forms necessary to voluntarily acknowledge paternity,

(C) Notice, orally or through video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities or acknowledging paternity, and

(D) The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment;

(ii) Provide the mother and alleged father the opportunity to voluntarily acknowledge paternity;

(iii) Afford due process safeguards; and

(iv) File signed original of voluntary acknowledgments or adjudications of paternity with the State registry of birth records (or a copy if the signed original is filed with another designated entity) for comparison with information in the State case registry.

(3) The hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program need not provide services specified in paragraph (g)(2) of this section in cases where the mother or alleged father is a minor or a legal action is already pending, if the provision of such services is precluded by State law.

(4) The State must require that a voluntary acknowledgment be signed by both parents, and that the parents' signatures be authenticated by a notary or witness(es).

(5) The State must provide to all hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program:

(i) Written materials about paternity establishment,

(ii) Form necessary to voluntarily acknowledge paternity, and

(iii) Copies of a written description of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due

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to minority status) and responsibilities of acknowledging paternity.

(6) The State must provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity, as necessary to operate the voluntary paternity establishment services in the hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program.

(7) The State must assess each hospital, State birth record agency, local birth record agency designated by the State, and other entity participating in the State's voluntary paternity establishment program that are providing voluntary paternity establishment services on at least an annual basis.

(8) Hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must forward completed voluntary acknowledgments or copies to the entity designated by the State. If any entity other than the State registry of birth records is designated by the State, a copy must be filed with the State registry of birth records, in accordance with § 303.5(g)(2)(iv). Under State procedures, the designated entity must be responsible for promptly recording identifying information about the acknowledgments with a statewide database, and the IV-D agency must have timely access to whatever identifying information and documentation it needs to determine in accordance with § 303.5(h) if an acknowledgment has been recorded and to seek a support order on the basis of a recorded acknowledgment in accordance with § 303.4(f).

(h) In IV-D cases needing paternity establishment, the IV-D agency must determine if identifying information about a voluntary acknowledgment has been recorded in the statewide database in accordance with § 303.5(g)(8).

[40 FR 27164, June 26, 1975, as amended at 50 FR 19650, May 9, 1985; 54 FR 32310, Aug. 4, 1989; 56 FR 22354, May 15, 1991; 59 FR 66250, Dec. 23, 1994; 64 FR 6249, Feb. 9, 1999; 64 FR 11809, Mar. 10, 1999]

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§ 303.6 Enforcement of support obligations.

For all cases referred to the IV-D agency or applying for services under § 302.33 in which the obligation to support and the amount of the obligation have been established, the IV-D agency must maintain and use an effective system for:

(a) Monitoring compliance with the support obligation;

(b) Identifying on the date the parent fails to make payments in an amount equal to the support payable for one month, or on an earlier date in accordance with State law, those cases in which there is a failure to comply with the support obligation; and

(c) Enforcing the obligation by:

(1) Initiating income withholding, in accordance with § 303.100;

(2) Taking any appropriate enforcement action (except income withholding and Federal and State income tax refund offset) unless service of process is necessary, within no more than 30 calendar days of identifying a delinquency or other support-related non-compliance with the order or the location of the noncustodial parent, whichever occurs later. If service of process is necessary prior to taking an enforcement action, service must be completed (or unsuccessful attempts to serve process must be documented in accordance with the State's guidelines defining diligent efforts under § 303.3(c)), and enforcement action taken if process is served, within no later than 60 calendar days of identifying a delinquency or other support-related non-compliance with the order, or the location of the noncustodial parent, whichever occurs later;

(3) Submitting once a year all cases which meet the certification requirements under § 303.102 of this part and State guidelines developed under § 302.70(b) of this title for State income tax refund offset, and which meet the certification requirements under § 303.72 of this part for Federal income tax refund offset; and

(4) In cases in which enforcement attempts have been unsuccessful, at the time an attempt to enforce fails, examining the reason the enforcement attempt failed and determining when it

would be appropriate to take an enforcement action in the future, and taking an enforcement action in accordance with the requirements of this section at that time.

[54 FR 32310, Aug. 4, 1989, as amended at 55 FR 25840, June 25, 1990]

§ 303.7 Provision of services in interstate IV-D cases.

(a) *Interstate central registry.* (1) The State IV-D agency must establish an interstate central registry responsible for receiving, distributing and responding to inquiries on all incoming interstate IV-D cases.

(2) Within 10 working days of receipt of an interstate IV-D case from an initiating State, the central registry must:

(i) Ensure that the documentation submitted with the case has been reviewed to determine completeness;

(ii) Forward the case for necessary action either to the State PLS for location services or to the appropriate agency for processing;

(iii) Acknowledge receipt of the case and ensure that any missing documentation has been requested from the initiating State; and

(iv) Inform the IV-D agency in the initiating State where the case was sent for action.

(3) If the documentation received with a case is inadequate and cannot be remedied by the central registry without the assistance of the initiating State, the central registry must forward the case for any action which can be taken pending necessary action by the initiating State.

(4) The central registry must respond to inquiries from other States within 5 working days of receipt of the request for a case status review.

(b) *Initiating State IV-D agency responsibilities.* The IV-D agency must:

(1) Use its long arm statute to establish paternity, when appropriate.

(2) Except as provided in paragraph (b)(1) of this section, within 20 calendar days of determining that the noncustodial parent is in another State, and, if appropriate, receipt of any necessary information needed to process the case, refer any interstate IV-D case to the responding State's interstate central registry for action, including requests

for location, document verification, administrative reviews in Federal income tax refund offset cases, income withholding, and State income tax refund offset in IV-D cases.

(3) Provide the IV-D agency in the responding State sufficient, accurate information to act on the case by submitting with each case any necessary documentation and Federally-approved interstate forms. The State may use computer-generated replicas in the same format and containing the same information in place of the Federal forms.

(4) Provide the IV-D agency or central registry in the responding State with any requested additional information or notify the responding State when the information will be provided within 30 calendar days of receipt of the request for information by submitting an updated form, or a computer-generated replica in the same format and containing the same information, and any necessary additional documentation.

(5) Notify the IV-D agency in the responding State within 10 working days of receipt of new information on a case by submitting an updated form and any necessary additional documentation.

(6) Send a request for review of a child support order to another State within 20 calendar days of determining that a request for review of the order should be sent to the other State and of receipt of information from the requestor necessary to conduct the review in accordance with § 303.8 of this part.

(c) *Responding State IV-D agency responsibilities.* (1) The IV-D agency must establish and use procedures for managing its interstate IV-D caseload which ensure provision of necessary services and include maintenance of case records in accordance with § 303.2 of this part.

(2) The IV-D agency must periodically review program performance on interstate IV-D cases to evaluate the effectiveness of the procedures established under this section.

(3) The State must ensure that the organizational structure and staff of

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the IV-D agency are adequate to provide for the administration or supervision of the following support enforcement functions specified in § 303.20(c) of this part for its interstate IV-D case-load: Intake; establishment of paternity and the legal obligation to support; location; financial assessment; establishment of the amount of child support; collection; monitoring; enforcement and investigation.

(4) Within 75 calendar days of receipt of an Interstate Child Support Enforcement Transmittal Form, and documentation from its interstate central registry, the IV-D agency must:

(i) Provide location services in accordance with § 303.3 of this part if the request is for location services or the form or documentation does not include adequate location information on the noncustodial parent;

(ii) If unable to proceed with the case because of inadequate documentation, notify the IV-D agency in the initiating State of the necessary additions or corrections to the form or documentation.

(iii) If the documentation received with a case is inadequate and cannot be remedied by the responding IV-D agency without the assistance of the initiating State, the IV-D agency must process the interstate IV-D case to the extent possible pending necessary action by the initiating State.

(5) Within 10 working days of locating the noncustodial parent in a different jurisdiction within the State, the IV-D agency must forward the form and documentation to the appropriate jurisdiction and notify the initiating State and central registry of its action.

(6) Within 10 working days of locating the noncustodial parent in a different State, the IV-D agency must—

(i) Return the form and documentation, including the new location, to the initiating State, or, if directed by the initiating State, forward the form and documentation to the central registry in the State where the noncustodial parent has been located; and

(ii) Notify the central registry where the case has been sent.

(7) The IV-D agency must provide any necessary services as it would in intrastate IV-D cases by:

(i) Establishing paternity in accordance with § 303.5 of this part and attempting to obtain a judgment for costs should paternity be established;

(ii) Establishing a child support obligation in accordance with §§ 303.4, 303.31 and 303.101 of this part;

(iii) Processing and enforcing orders referred by another State, whether pursuant to the Uniform Interstate Family Support Act or other legal processes, using appropriate remedies applied in its own cases in accordance with §§ 303.6, 303.31, 303.100 through 303.102, and 303.104 of this part; and

(iv) Collecting and monitoring any support payments from the noncustodial parent and forwarding payments to the location specified by the IV-D agency in the initiating State. The IV-D agency must include sufficient information to identify the case, indicate the date of collection as defined under § 302.51(a) of this chapter, and include the responding State's identifying code as defined in the Federal Information Processing Standards Publication (FIPS) issued by the National Bureau of Standards or the Worldwide Geographic Location Codes issued by the General Services Administration.

(v) Reviewing and adjusting child support orders upon request in accordance with § 303.8 of this part.

(8) The IV-D agency must provide timely notice to the IV-D agency in the initiating State in advance of any formal hearings which may result in establishment or adjustment of an order.

(9) The IV-D agency must notify the IV-D agency in the initiating State within 10 working days of receipt of new information on a case by submitting an updated form or a computer-generated replica in the same format and containing the same information.

(10) The IV-D agency must notify the interstate central registry in the responding State when a case is closed.

(d) *Payment and recovery of costs in interstate IV-D cases.* (1) Except as provided in paragraphs (2) and (4), the IV-D agency in the responding State must pay the costs it incurs in processing interstate IV-D cases.

(2) The IV-D agency in the initiating State must pay for the costs of genetic

testing in actions to establish paternity.

(3) If paternity is established in the responding State, the IV-D agency must attempt to obtain a judgment for the costs of genetic testing ordered by the IV-D agency from the alleged father who denied paternity. If the costs of initial or additional genetic testing are recovered, the responding State must reimburse the initiating State.

(4) Each IV-D agency may recover its costs of providing services in interstate non-IV-A cases in accordance with § 302.33(d) of this chapter.

(5) The IV-D agency in the responding State must identify any fees or costs deducted from support payments when forwarding payments to the IV-D agency in the initiating State in accordance with § 303.7(c)(7)(iv) of this section.

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[53 FR 5257, Feb. 22, 1988, as amended at 53 FR 18987, May 26, 1988; 53 FR 21645, June 9, 1988; 53 FR 27518, July 21, 1988; 54 FR 32311, Aug. 4, 1989; 55 FR 25840, June 25, 1990; 56 FR 22355, May 15, 1991; 57 FR 30681, July 10, 1992; 57 FR 61581, Dec. 28, 1992; 64 FR 6250, Feb. 9, 1999; 68 FR 25303, May 12, 2003]

§ 303.8 Review and adjustment of child support orders.

(a) Definition. For purposes of this section, *Parent* includes any custodial parent or noncustodial parent (or for purposes of requesting a review, any other person or entity who may have standing to request an adjustment to the child support order).

(b) Required procedures. Pursuant to section 466(a)(10) of the Act, when providing services under this chapter:

(1) The State must have procedures under which, every 3 years (or such shorter cycle as the State may determine), upon the request of either parent, or, if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent, the State shall with respect to a support order being enforced under this part, taking into account the best interests of the child involved:

(i) Review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) of the Act if the amount of the

child support award under the order differs from the amount that would be awarded in accordance with the guidelines;

(ii) Apply a cost-of-living adjustment to the order in accordance with a formula developed by the State; or

(iii) Use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.

(2) If the State elects to conduct the review under paragraph (b)(1)(ii) or (iii) of this section, the State must have procedures which permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a) of the Act.

(3) If the State conducts a guideline review under paragraph (b)(1)(i) of this section:

(i) *Review* means an objective evaluation, conducted through a proceeding before a court, quasi-judicial process, or administrative body or agency, of information necessary for application of the State's guidelines for support to determine:

(A) The appropriate support award amount; and

(B) The need to provide for the child's health care needs in the order through health insurance coverage or other means.

(ii) *Adjustment* applies only to the child support provisions of the order, and means:

(A) An upward or downward change in the amount of child support based upon an application of State guidelines for setting and adjusting child support awards; and/or

(B) Provision for the child's health care needs, through health insurance coverage or other means.

(4) The State must have procedures which provide that any adjustment under paragraph (b)(1)(i) of this section shall be made without a requirement

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for proof or showing of a change in circumstances.

(5) The State must have procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under paragraph (b)(1) of this section, the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 467(a) of the Act.

(6) The State must provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order consistent with this section. The notice must specify the place and manner in which the request should be made. The initial notice may be included in the order.

(c) Standard for adequate grounds. The State may establish a reasonable quantitative standard based upon either a fixed dollar amount or percentage, or both, as a basis for determining whether an inconsistency between the existent child support award amount and the amount of support determined as a result of a review using automated methods under paragraph (b)(1)(iii) of this section is adequate grounds for petitioning for adjustment of the order.

(d) Health care needs must be adequate basis. The need to provide for the child's health care needs in the order, through health insurance or other means, must be an adequate basis under State law to initiate an adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary. In no event shall the eligibility for or receipt of Medicaid be considered to meet the need to provide for the child's health care needs in the order.

(e) Timeframes for review and adjustment. Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a State must: Conduct a review of the order and adjust the order or determine that the order should not be adjusted, in accordance with this section.

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(f) Interstate review and adjustment. (1) In interstate cases, the State with legal authority to adjust the order must conduct the review and adjust the order pursuant to this section.

(2) The applicable laws and procedures for review and adjustment of child support orders, including the State guidelines for setting child support awards, established in accordance with §302.56 of this chapter, are those of the State in which the review and adjustment, or determination that there be no adjustment, takes place.

[68 FR 25303, May 12, 2003]

§ 303.10 [Reserved]

§ 303.11 Case closure criteria.

(a) The IV-D agency shall establish a system for case closure.

(b) In order to be eligible for closure, the case must meet at least one of the following criteria:

(1) There is no longer a current support order and arrearages are under \$500 or unenforceable under State law;

(2) The noncustodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken;

(3) Paternity cannot be established because:

(i) The child is at least 18 years old and action to establish paternity is barred by a statute of limitations which meets the requirements of §302.70(a)(5) of this chapter;

(ii) A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified; or

(iii) In accordance with §303.5(b) of this part, the IV-D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending;

(iv) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV-D agency with the recipient of services;

(4) The noncustodial parent's location is unknown, and the State has made diligent efforts using multiple sources, in accordance with §303.3, all

of which have been unsuccessful, to locate the noncustodial parent:

(i) Over a three-year period when there is sufficient information to initiate an automated locate effort, or

(ii) Over a one-year period when there is not sufficient information to initiate an automated locate effort;

(5) The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically-verified total and permanent disability with no evidence of support potential. The State must also determine that no income or assets are available to the noncustodial parent which could be levied or attached for support;

(6) The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and the State has been unable to establish reciprocity with the country;

(7) The IV-D agency has provided location-only services as requested under § 302.35(c)(3) of this chapter;

(8) The non-IV-A recipient of services requests closure of a case and there is no assignment to the State of medical support under 42 CFR 433.146 or of arrearages which accrued under a support order;

(9) There has been a finding by the responsible State agency of good cause or other exceptions to cooperation with the IV-D agency and the State or local IV-A, IV-D, IV-E, Medicaid or food stamp agency has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative;

(10) In a non-IV-A case receiving services under § 302.33(a)(1) (i) or (iii), the IV-D agency is unable to contact the recipient of services within a 60 calendar day period despite an attempt of at least one letter sent by first class mail to the last known address;

(11) In a non-IV-A case receiving services under § 302.33(a)(1) (i) or (iii), the IV-D agency documents the circumstances of the recipient of services's noncooperation and an action by the recipient of services is es-

sential for the next step in providing IV-D services.

(12) The IV-D agency documents failure by the initiating State to take an action which is essential for the next step in providing services.

(c) In cases meeting the criteria in paragraphs (b) (1) through (6) and (10) through (12) of this section, the State must notify the recipient of services, or in an interstate case meeting the criteria for closure under (b)(12), the initiating State, in writing 60 calendar days prior to closure of the case of the State's intent to close the case. The case must be kept open if the recipient of services or the initiating State supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order, or, in the instance of paragraph (b)(10) of this section, if contact is reestablished with the recipient of services. If the case is closed, the former recipient of services may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application for IV-D services and paying any applicable application fee.

(d) The IV-D agency must retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR part 74.

[54 FR 32311, Aug. 4, 1989, as amended at 56 FR 8004, Feb. 26, 1991; 64 FR 11817, 11818, Mar. 10, 1999]

§ 303.15 Agreements to use the Federal Parent Locator Service (PLS) in parental kidnapping and child custody or visitation cases.

(a) *Definitions.* The following definitions apply to this section:

(1) *Authorized person* means the following:

(i) Any agent or attorney of any State having an agreement under this section, who has the duty or authority under the laws of the State to enforce a child custody or visitation determination;

(ii) Any court having jurisdiction to make or enforce a child custody or visitation determination, or any agent of the court; or

(iii) Any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.

(2) *Custody or visitation determination* means a judgment, decree, or other order of a court providing for custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications.

(b) A State shall enter into an agreement with the Office that meets the requirements of section 463 of the Act and this section of the regulations so that the State IV-D agency may request information from the Federal PLS for the purpose of:

(1) Enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

(2) Making or enforcing a child custody or visitation determination.

(c) An agreement under section 463 of the Act must contain the following provisions:

(1) The Director will provide the State IV-D agency with the most recent home address and place of employment of a parent or child if the information is requested for the purposes specified in paragraph (b) of this section.

(2) The State shall make requests for information under the agreement only for the purposes specified in paragraph (b) of this section.

(3) The State shall make requests to the Federal PLS through the State PLS established under § 302.35 of this chapter.

(4) The State shall submit requests in the standard format and exchange media normally available to or used by the State PLS.

(5) The State shall identify requests in a manner prescribed by the Office in instructions so that requests can be distinguished from other types of requests submitted to the Federal PLS.

(6) The State shall impose, collect and account for fees to offset the costs

to the State and the Office incurred in processing requests.

(7) The State shall periodically transmit the fees collected to cover the costs to the Federal PLS of processing requests. Fees shall be transmitted in the amount and in the manner prescribed by the Office in instructions.

(8) The State shall adopt policies and procedures to ensure that information shall be used and disclosed solely for the purposes specified in paragraph (b) of this section. Under this requirement, the State shall:

(i) Restrict access to the information to authorized persons whose duties or responsibilities require access in connection with child custody and parental kidnapping cases;

(ii) Store the information during nonduty hours, or when not in use, in a locked container within a secure area that is safe from access by unauthorized persons;

(iii) Process the information under the immediate supervision and control of authorized personnel, in a manner which will protect the confidentiality of the information, and in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal, or other means;

(iv) Brief all employees who will have access to the data on security procedures and instructions;

(v) Send the information directly to the requestor and make no other use of the information;

(vi) After the information is sent to the requestor, destroy any confidential records and information related to the request.

(d)(1) An agreement under section 463 of the Act must be signed by the Governor of the State or the Governor's designee.

(2) The agreement must also be signed by the Attorney General of the State who must certify that the signing State official has the authority under State law to commit the State to the agreement.

[46 FR 54557, Nov. 3, 1981, as amended at 64 FR 6250, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

§ 303.20 Minimum organizational and staffing requirements.

(a) The organizational structure of the IV-D agency (see § 302.12) provides for administration or supervision of all the functions for which it is responsible under the State plan, is appropriate to the size and scope of the program in the State, and contains clearly established lines for administrative and supervisory authority.

(b) There is an organizational structure and sufficient staff to fulfill the following required State level functions:

(1) The establishment and administration of the State plan.

(2) Formal evaluation of the quality, efficiency, effectiveness, and scope of services provided under the plan.

(3) Coordination of activities pursuant to, and assurance of compliance with, the requirements of the State's Uniform Interstate Family Support Act for cases pursuant to a State plan.

(4) Requests to the DHHS Office of Child Support Enforcement for use of the Federal Parent Locator Service, the U.S. District Courts, and Secretary of the U.S. Treasury collection procedures.

(5) Preparation and submission of reports required by the Office.

(6) Financial control of the operation of the plan.

(7) Operation of the State Parent Locator Service as required under § 302.35 of this chapter.

(c) There is an organizational structure and sufficient resources at the State and local level to meet the performance and time standards contained in this part and to provide for the administration or supervision of the following support enforcement functions:

(1) *Intake.* Activities associated with initial support case opening.

(2) *Establishing the legal obligation to support.* Activities related to determining the noncustodial parent's legal obligation to support his or her dependent children, including paternity determination when necessary.

(3) *Locate.* Activities associated with locating a noncustodial parent.

(4) *Financial assessment.* Activities related to determining a noncustodial parent's ability to provide support.

(5) *Establishment of the amount of support.* Activities related to determining a noncustodial parent's child support obligation, including methods and terms of payment.

(6) *Collection.* Activities related to monitoring payment activities and processing cash flow.

(7) *Enforcement.* Activities to enforce collection of support, including income withholding and other available enforcement techniques.

(8) *Investigation.* Activities related to investigation necessary to accomplish the functions of this paragraph.

(d) The functions referred to in paragraphs (b) (1), (2) and (6) of this section may not be delegated by the IV-D agency. The functions referred to in paragraph (b)(5) of this section may be delegated to the extent necessary to report on activities delegated by the IV-D agency.

(e) No functions under the State plan may be delegated by the IV-D agency if such functions are to be performed by caseworkers who are also performing the assistance payments or social services functions under title IV-A or XX of the Act.

In the case of a sparsely populated geographic area, upon justification by the IV-D agency documenting a lack of administrative feasibility in not utilizing staff of the IV-A agency, the Office may approve alternate arrangements that include sufficient reporting and cost allocation methods that will assure compliance with Federal requirements and proper claims for Federal financial participation. Under this provision:

(1) *Caseworker* means any person who has decision-making authority over individual cases on a day-to-day basis and includes, but is not limited to such designations as intake worker, eligibility technician, caseworker, and social worker.

(2) The *assistance payments function* means activities related to determination of eligibility for, and amount of financial assistance under the approved State plan under title I, IV-A, X, XIV, or XVI, State Supplemental income payments under title XVI of the Act, and State or local General Assistance programs. It includes the complete

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process of determining initial and continuing eligibility for financial and medical assistance and commodities distribution or food stamps.

(3) The *social services function* means those activities included in the approved State plan and carried out pursuant to title XX of the Act. It includes determination of eligibility for, and delivery of services to, families and individuals under the approved State plan or under title XX of the Act.

(f) There are the following types of staff in sufficient numbers to achieve the standards for an effective program prescribed in this part:

(1) Attorneys or prosecutors to represent the agency in court or administrative proceedings with respect to the establishment and enforcement of orders of paternity and support, and

(2) Other personnel such as legal, interviewer, investigative, accounting, clerical, and other supportive staff.

(g) If it is determined as a result of an audit conducted under part 305 of this chapter that a State is not in substantial compliance with the requirements of title IV-D of the Act, the Secretary will evaluate whether inadequate resources was a major contributing factor and, if necessary, may set resource standards for the State.

[40 FR 27164, June 26, 1975, as amended at 47 FR 57282, Dec. 23, 1982; 54 FR 32312, Aug. 4, 1989; 64 FR 6250, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

§ 303.30 Securing medical support information.

(a) If the IV-A or IV-E agency does not provide the information specified in this paragraph to the Medicaid agency and if the information is available or can be obtained in a IV-D case for which an assignment as defined under § 301.1 of this chapter is in effect, the IV-D agency shall obtain the following information on the case:

(1) Title IV-A case number, title IV-E foster care case number, Medicaid number or the individual's social security number;

(2) Name of noncustodial parent;

(3) Social security number of noncustodial parent;

(4) Name and social security number of child(ren);

(5) Home address of noncustodial parent;

(6) Name and address of noncustodial parent's place of employment;

(7) Whether the noncustodial parent has a health insurance policy and, if so, the policy name(s) and number(s) and name(s) of person(s) covered.

(b) The IV-D agency shall provide the information obtained under paragraph (a) of this section to the Medicaid agency in a timely manner by the most efficient and cost-effective means available, using manual or automated systems.

(Approved by the Office of Management and Budget under control numbers 0960–0420 and 0970–0107)

[50 FR 41895, Oct. 15, 1985, as amended at 51 FR 37732, Oct. 24, 1986. Redesignated at 54 FR 32312, Aug. 4, 1989; 56 FR 8004, Feb. 26, 1991; 64 FR 6250, Feb. 9, 1999]

§ 303.31 Securing and enforcing medical support obligations.

(a) For purposes of this section:

(1) Health insurance is considered reasonable in cost if it is employment-related or other group health insurance, regardless of service delivery mechanism.

(2) Health insurance includes fee for service, health maintenance organization, preferred provider organization, and other types of coverage under which medical services could be provided to the dependent child(ren) of a noncustodial parent.

(b) With respect to cases for which there is an assignment as defined in § 301.1 of this chapter in effect, the IV-D agency shall:

(1) Unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, petition the court or administrative authority to include health insurance that is available to the noncustodial parent at reasonable cost in new or modified court or administrative orders for support.

(2) Petition the court or administrative authority to include medical support as required under paragraph (b)(1) of this section whether or not—

(i) Health insurance at reasonable cost is actually available to the noncustodial parent at the time the order is entered; or

(ii) Modification of current coverage to include the child(ren) in question is immediately possible.

(3) Establish written criteria to identify cases not included under paragraphs (b)(1) and (b)(2) of this section where there is a high potential for obtaining medical support based on—

(i) Evidence that health insurance may be available to the noncustodial parent at a reasonable cost, and

(ii) Facts, as defined by State law, regulation, procedure, or other directive, which are sufficient to warrant modification of the existing support order to include health insurance coverage for a dependent child(ren).

(4) Petition the court or administrative authority to modify support orders for cases identified in paragraph (b)(3) of this section to include medical support in the form of health insurance coverage.

(5) Provide the custodial parent with information pertaining to the health insurance policy which has been secured for the dependent child(ren) pursuant to an order obtained under this section.

(6) Inform the Medicaid agency when a new or modified court or administrative order for child support includes medical support and provide the information referred to in §303.30(a) of this part to the Medicaid agency when the information is available.

(7) If health insurance is available to the noncustodial parent at reasonable cost and has not been obtained at the time the order is entered, take steps to enforce the health insurance coverage required by the support order and provide the Medicaid agency with the information referred to in §303.30(a) of this part.

(8) Periodically communicate with the Medicaid agency to determine if there have been lapses in health insurance coverage for Medicaid applicants and recipients.

(9) Request employers and other groups offering health insurance coverage that is being enforced by the IV-D agency to notify the IV-D agency of lapses in coverage.

(c) The IV-D agency shall inform an individual who is eligible for services under §302.33 of this chapter that medical support enforcement services will

be provided and shall provide the services specified in paragraph (b) of this section.

(Approved by the Office of Management and Budget under control numbers 0960-0420 and 0970-0107)

[50 FR 41895, Oct. 15, 1985, as amended at 51 FR 37732, Oct. 24, 1986. Redesignated at 54 FR 32312, Aug. 4, 1989, and amended at 56 FR 8004, Feb. 26, 1991; 61 FR 67241, Dec. 20, 1996; 64 FR 6250, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

§ 303.32 National Medical Support Notice.

(a) *Mandatory State laws.* States must have laws, in accordance with section 466(a)(19) of the Act, requiring procedures specified under paragraph (c) of this section for the use, where appropriate, of the National Medical Support Notice (NMSN), to enforce the provision of health care coverage for children of noncustodial parents who are required to provide health care coverage through an employment-related group health plan pursuant to a child support order and for whom the employer is known to the State agency.

(b) *Exception.* States are not required to use the NMSN in cases with court or administrative orders that stipulate alternative health care coverage to employer-based coverage.

(c) *Mandatory procedures.* The State must have in effect and use procedures under which:

(1) The State agency must use the NMSN to transfer notice of the provision for health care coverage of the child(ren) to employers.

(2) The State agency must transfer the NMSN to the employer within two business days after the date of entry of an employee who is an obligor in a IV-D case in the State Directory of New Hires.

(3) Employers must transfer the NMSN to the appropriate group health plan providing any such health care coverage for which the child(ren) is eligible (excluding the severable Notice to Withhold for Health Care Coverage directing the employer to withhold any mandatory employee contributions to the plan) within twenty business days after the date of the NMSN.

(4) Employers must withhold any obligation of the employee for employee contributions necessary for coverage of

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the child(ren) and send any amount withheld directly to the plan.

(5) Employees may contest the withholding based on a mistake of fact. If the employee contests such withholding, the employer must initiate withholding until such time as the employer receives notice that the contest is resolved.

(6) Employers must notify the State agency promptly whenever the non-custodial parent's employment is terminated in the same manner as required for income withholding cases in accordance with § 303.100(e)(1)(x) of this part.

(7) The State agency must promptly notify the employer when there is no longer a current order for medical support in effect for which the IV-D agency is responsible.

(8) The State agency, in consultation with the custodial parent, must promptly select from available plan options when the plan administrator reports that there is more than one option available under the plan.

(d) *Effective date.* This section is effective October 1, 2001, or, if later, the effective date of State laws described in paragraph (a) of this section. Such State laws must be effective no later than the close of the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after October 1, 2001. For States with 2-year legislative sessions, each year of such session would be regarded as a separate regular session.

[65 FR 82165, Dec. 27, 2000]

§ 303.35 Administrative complaint procedure.

(a) Each State must have in place an administrative complaint procedure, defined by the State, in place to allow individuals the opportunity to request an administrative review, and take appropriate action when there is evidence that an error has occurred or an action should have been taken on their case. This includes both individuals in the State and individuals from other States.

(b) A State need not establish a formal hearing process but must have clear procedures in place. The State must notify individuals of the proce-

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dures, make them available for recipients of IV-D services to use when requesting such a review, and use them for notifying recipients of the results of the review and any actions taken.

[65 FR 82208, Dec. 27, 2000]

§ 303.52 Pass-through of incentives to political subdivisions.

The State must calculate and promptly pay incentives to political subdivisions as follows:

(a) The State IV-D agency must develop a standard methodology for passing through an appropriate share of its incentive payment to those political subdivisions of the State that participate in the costs of the program, taking into account the efficiency and effectiveness of the activities carried out under the State plan by those political subdivisions. In order to reward efficiency and effectiveness, the methodology also may provide for payment of incentives to other political subdivisions of the State that administer the program.

(b) To ensure that the standard methodology developed by the State reflects local participation, the State IV-D agency must submit a draft methodology to participating political subdivisions for review and comment or use the rulemaking process available under State law to receive local input.

[54 FR 32312, Aug. 4, 1989]

§ 303.69 Requests by agents or attorneys of the United States for information from the Federal Parent Locator Service (PLS).

(a) Agents or attorneys of the United States may request information directly from the Federal PLS in connection with a parental kidnapping or child custody case. (See § 303.15(a) of this part for a definition of persons authorized to request the information.)

(b) All requests under this section shall be made in the manner and form prescribed by the Office.

(c) All requests under this section shall contain the information specified in § 303.70(c) of this part.

(d) All requests under this section shall be accompanied by a statement, signed by the agent or attorney of the

United States, attesting to the following:

(1) The request is being made solely to locate an individual in connection with a parental kidnapping or child custody case.

(2) Any information obtained through the Federal PLS shall be treated as confidential, shall be used solely for the purpose for which it was obtained and shall be safeguarded.

(e) A fee may be charged to cover the costs of processing requests for information. A separate fee may be charged to cover costs of searching for a social security number before processing a request for location information.

(Approved by the Office of Management and Budget under control number 0960-0258)

[48 FR 38645, Aug. 25, 1983, as amended at 51 FR 37731, Oct. 24, 1986]

§ 303.70 Requests by the State Parent Locator Service (SPLS) for information from the Federal Parent Locator Service (FPLS).

(a) Only the central State PLS office, and any additional IV-D offices designated under § 302.35(b), may submit requests for information to the Federal PLS.

(b) All requests shall be made in the manner and form prescribed by the Office.

(c) All requests shall contain the following information:

(1) The parent's name;

(2) The parent's social security number (SSN). If the SSN is unknown, the IV-D agency must make every reasonable effort to ascertain the individual's SSN before submitting the request to the Federal PLS;

(3) Whether the individual is or has been a member of the armed services, if known;

(4) Whether the individual is receiving, or has received, any Federal compensation or benefits, if known; and

(5) Any other information prescribed by the Office.

(d) All requests shall be accompanied by a statement, signed by the director of the IV-D agency or his or her designee, attesting to the following:

(1) The request is being made to obtain information or to facilitate the discovery of any individual in accordance with section 453(a)(2) of the Act

for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations, or for determining who has or may have parental rights with respect to a child, or in accordance with section 453(a)(3) of the Act for enforcing a Federal or State law with respect to the unlawful taking or restraint of a child, or for making or enforcing a child custody or visitation determination as defined in section 463(d)(1) of the Act.

(2) Any information obtained through the Federal PLS shall be treated as confidential and shall be safeguarded under the requirements of sections 453(b), 453(l), 454(8), 454(17), 454(26), and 463(c) of the Act and instructions issued by the Office.

(e)(1) The IV-D agency shall pay the fees required under:

(i) Section 453(e)(2) of the Act;

(ii) Section 454(17) of the Act in parental kidnapping and child custody or visitation cases;

(iii) Section 453(k)(3) of the Act.

(2)(i) The IV-D agency may charge an individual requesting information, or pay without charging the individual, the fee required under sections 453(e)(2), 453(k)(3) or 454(17) of the Act except that the IV-D agency shall charge an individual specified in section 453(c)(3) of the Act the fee required under section 453(e)(2) of the Act.

(ii) The State may recover the fee required under section 453(e)(2) of the Act from the noncustodial parent who owes a support obligation to a family on whose behalf the IV-D agency is providing services and repay it to the individual requesting information or itself.

(iii) State funds used to pay the fee under section 453(e)(2) of the Act are not program expenditures under the State plan but are program income under § 304.50 of this chapter.

(3) The fees required under sections 453(e)(2), 453(k)(3) and 454(17) of the Act shall be reasonable and as close to actual costs as possible so as not to discourage use of the FPLS by authorized individuals.

(4)(i) For costs of processing requests for information under sections 453(e)(2) and 454(17) of the Act, and furnishing information under section 453(k)(3) of the Act, the Federal government will

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charge the IV-D agency periodically. A fee will be charged for submitting a case to the FPLS for information.

(ii) If a State fails to pay the appropriate fees charged by the Office under this section, the services provided by the FPLS in cases subject to the fees may be suspended until payment is received.

(iii) Fees shall be transmitted in the amount and manner prescribed by the Office in instructions.

(Approved by the Office of Management and Budget under control number 0960-0165)

[46 FR 54557, Nov. 3, 1981, as amended at 47 FR 24719, June 8, 1982; 47 FR 57282, Dec. 23, 1982; 51 FR 37731, Oct. 24, 1986; 57 FR 28110, June 24, 1992; 64 FR 6250, 6251, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

§ 303.71 Requests for full collection services by the Secretary of the Treasury.

(a) *Definition. State collection mechanisms* means a comprehensive set of written procedures developed and used to maximize effective collection action within the State.

(b) *Families eligible.* Subject to the criteria and procedures in this section, the IV-D agency may request the Secretary to certify the amount of a child support obligation to the Secretary of the Treasury for collection under section 6305 of the Internal Revenue Code of 1986. Requests may be made on behalf of families who make assignments as defined in § 301.1 of this chapter and on behalf of families receiving services under § 302.33.

(c) *Cases eligible.* For a case to be eligible for certification to the Secretary of the Treasury:

(1) There shall be a court or administrative order for support;

(2) The amount to be collected under the support order shall be at least \$750 in arrears;

(3) At least six months shall have elapsed since the last request for referral of the case to the Secretary of the Treasury;

(4) The IV-D agency, the client, or the client's representative shall have made reasonable efforts to collect the support through the State's own collection mechanisms. The agency need not repeat actions taken by the client or client's representative that the agency

determines to be comparable to the State's collection mechanisms.

(5) Only the State that has taken an assignment as defined in § 301.1 of this chapter or an application or referral under § 302.33 of this chapter may request Secretary of the U.S. Treasury collection services on behalf of a given case.

(d) *Procedures for submitting requests.*

(1) The IV-D agency shall submit requests for certification to the regional office in the manner and form prescribed by the Office.

(2) The Director of the State IV-D agency (or designee) shall sign requests for collection by the Secretary of the Treasury.

(e) *Criteria for acceptable requests.* The IV-D agency shall ensure that each request contains:

(1) Sufficient information to identify the debtor, including:

(i) The individual's name;

(ii) The individual's social security number;

(iii) The individual's address and place of employment, including the source of this information and the date it was last verified.

(2) A copy of all court or administrative orders for support;

(3)(i) The amount owed under the support orders;

(ii) A statement of whether the amount is in lieu of, or in addition to, amounts previously referred to Secretary of the U.S. Treasury for collection;

(4)(i) A statement that the agency, the client, or the client's representative has made reasonable efforts to collect the amount owed using the State's own collection mechanisms or mechanisms that are comparable;

(ii) A description of the actions taken, why they failed, and why further State action would be unproductive;

(5) The dates of any previous requests for referral of the case to the Secretary of the Treasury;

(6) A statement that the agency agrees to reimburse the Secretary of the Treasury for the costs of collection; and

(7)(i) A statement that the agency has reason to believe that the debtor has assets that the Secretary of the

Treasury might levy to collect the support; and

(ii) A statement of the nature and location of the assets, if known.

(f) *Review of requests by the Office.* (1) The Regional Office will review each request to determine whether it meets the requirements of this section.

(2) If a request meets all requirements, the Regional Office will promptly certify and transmit the request with a copy of all supporting documentation to the Secretary of the Treasury. At the same time, the Regional Office will notify the IV-D agency in writing of the transmittal.

(3)(i) If a request does not meet all requirements, the Regional Office will attempt to correct the request in consultation with the IV-D agency.

(ii) If the request cannot be corrected through consultation, the Regional Office will return it to the agency with an explanation of why the request was not certified.

(g) *Notification of changes in case status.* (1) The IV-D agency shall immediately notify the Regional Office of the following changes in case status:

(i) A change in the amount due;

(ii) A change in the nature or location of assets;

(iii) A change in the address of the debtor.

(2) The Regional Office will transmit the revised information to the Secretary of the Treasury.

(Approved by the Office of Management and Budget under control number 0960-0281)

[47 FR 16030, Apr. 14, 1982; 48 FR 7179, Feb. 18, 1983, as amended at 51 FR 37731, Oct. 24, 1986; 56 FR 8004, Feb. 26, 1991; 64 FR 6251, Feb. 9, 1999]

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) *Past-due support qualifying for offset.* Past-due support as defined in § 301.1 of this chapter qualifies for offset if:

(1) There has been an assignment of the support rights under section 408(a)(3) of the Act or section 471(a)(17) of the Act to the State making the request for offset or the IV-D agency is providing services under § 302.33 of this chapter.

(2) For support that has been assigned to the State under section 408(a)(3) of the Act or section 471(a)(17) of the Act, the amount of the support is not less than \$150. The State may combine assigned support amounts from the same obligor in multiple cases to reach \$150. Amounts under this paragraph may not be combined with amounts under paragraph (a)(3) of this section to reach the minimum amounts required under this paragraph or under paragraph (a)(3) of this section.

(3) For support owed in cases where the IV-D agency is providing IV-D services under § 302.33 of this chapter:

(i) The support is owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.

(ii) The amount of support is not less than \$500. The State may combine support amounts from the same obligor in multiple cases where the IV-D agency is providing IV-D services under § 302.33 of this chapter to reach \$500. Amounts under this paragraph may not be combined with amounts under paragraph (a)(2) of this section to reach the minimum amounts required under this paragraph or under paragraph (a)(2) of this section.

(iii) At State option, the amount has accrued since the State IV-D agency began to enforce the support order; and

(iv) The State has checked its records to determine if a title IV-A or foster care maintenance assigned arrearage exists with respect to the non-IV-A individual or family.

(4) The IV-D agency has in its records:

(i) A copy of the order and any modifications upon which the amount referred is based which specify the date of issuance and amount of support;

(ii) A copy of the payment record, or, if there is no payment record, an affidavit signed by the custodial parent attesting to the amount of support owed; and

(iii) In non-IV-A cases, the custodial parent's current address.

(5) Before submittal, the State IV-D agency has verified the accuracy of the name and social security number of the noncustodial parent and the accuracy

of the past-due support amount. If the State IV-D agency has verified this information previously, it need not reverify it.

(6) A notification of liability for past-due support has been received by the Secretary of the U.S. Treasury as prescribed by paragraph (c)(2) of this section.

(b) *Notification to OCSE of liability for past-due support.* (1) A State IV-D agency shall submit a notification or (notifications) of liability for past-due support to the Office according to the timeframes and in the manner specified by the Office in instructions.

(2) To the extent specified by the Office in instructions, the notification of liability for past-due support shall contain with respect to each:

(i) The name of the taxpayer who owes the past-due support;

(ii) The social security number of that taxpayer;

(iii) The amount of past-due support owed;

(iv) The State codes as contained in the Federal Information Processing Standards (FIPS) publication of the National Bureau of Standards and also promulgated by the General Services Administration in Worldwide Geographical Location Codes; and

(v) Whether the past-due support is due an individual who applied for services under § 302.33 of this chapter.

(3) The notification of liability for past-due support may contain with respect to each delinquency the taxpayer's IV-D identifier.

(c) *Review of requests by the Office.* (1) The Deputy Director will review each request to determine whether it meets the requirements of this section.

(2) If a request meets all requirements, the Deputy Director will transmit the request to the Secretary of the U.S. Treasury and will notify the State IV-D agency of the transmittal.

(3) If a request does not meet all requirements, the Deputy Director will attempt to correct the request in consultation with the State IV-D agency.

(4) If a request cannot be corrected through consultation, the Deputy Director will return it to the State IV-D agency with an explanation of why the request could not be transmitted to the Secretary of the U.S. Treasury.

(d) *Notification of changes in case status.* (1) The State referring past-due support of offset must, in interstate situations, notify any other State involved in enforcing the support order when it submits an interstate case for offset and when it receives the offset amount from the Secretary of the U.S. Treasury.

(2) The State IV-D agency shall within time frames established by the Office in instructions, notify the Deputy Director of any deletion of an amount referred for collection by Federal tax offset or any decrease in the amount if the decrease is significant according to the guidelines developed by the State. The notification shall contain the information specified in paragraph (b) of this section.

(e) *Notices of offset—*(1) *Advance.* The State IV-D agency, or the Office, if the State requests and the Office agrees, shall send a written advance notice to inform a noncustodial parent that the amount of his or her past-due support will be referred to the Secretary of the U.S. Treasury for collection by Federal tax refund offset. The notice must inform noncustodial parents:

(i) Of their right to contest the State's determination that past-due support is owed or the amount of past-due support;

(ii) Of their right to an administrative review by the submitting State or at the noncustodial parent's request the State with the order upon which the referral for offset is based;

(iii) Of the procedures and timeframe for contacting the IV-D agency in the submitting State to request administrative review; and

(iv) That, in the case of a joint return, the Secretary of the U.S. Treasury will notify the noncustodial parent's spouse at the time of offset regarding the steps to take to protect the share of the refund which may be payable to that spouse. If the IV-D agency sends the notice, it must meet the conditions specified by the Office in instructions.

(2) *At offset.* The Secretary of the U.S. Treasury will notify the noncustodial parent that the offset has been made. The Secretary of the U.S. Treasury will also notify any individual who filed a

joint return with the noncustodial parent of the steps to take in order to secure a proper share of the refund.

(f) *Procedures for contesting in intra-state cases.* (1) Upon receipt of a complaint from a noncustodial parent in response to the advance notice required in paragraph (e)(1) of this section or concerning a tax refund which has already been offset, the IV-D agency must send a notice to the noncustodial parent and, in non-IV-A cases the custodial parent, of the time and place of the administrative review of the complaint and conduct the review to determine the validity of the complaint.

(2) If the complaint concerns a joint tax refund that has not yet been offset, the IV-D agency must inform the noncustodial parent that the Secretary of the U.S. Treasury will notify the noncustodial parent's spouse at the time of offset regarding the steps to take to secure his or her proper share of the refund. If the complaint concerns a joint tax refund which has already been offset, the IV-D agency must refer the noncustodial parent to the Secretary of the U.S. Treasury.

(3) If the administrative review results in a deletion of, or decrease in, the amount referred for offset, the IV-D agency must notify OCSE within time frames established by the Office and include the information specified in paragraph (b) of this section.

(4) If, as a result of the administrative review, an amount which has already been offset is found to have exceeded the amount of past-due support owed, the IV-D agency must take steps to refund the excess amount to the noncustodial parent promptly.

(g) *Procedures for contesting in interstate cases.* (1) If the noncustodial parent requests an administrative review in the submitting State, the IV-D agency must meet the requirements in paragraph (f) of this section.

(2) If the complaint cannot be resolved by the submitting State and the noncustodial parent requests an administrative review in the State with the order upon which the referral for offset is based, the submitting State must notify the State with the order of the request for an administrative review and provide that State with all necessary information, including the information

listed under paragraph (a)(4) of this section, within 10 days of the noncustodial parent's request for an administrative review.

(3) The State with the order must send a notice to the noncustodial parent and, in non-IV-A cases the custodial parent, of the time and place of the administrative review, conduct the review and make a decision within 45 days of receipt of the notice and information from the submitting State.

(4) If the administrative review results in a deletion of, or change in, the amount referred for offset, the State with the order must notify the submitting State within time frames established by the Office and include the information specified in paragraph (b) of this section. The submitting State must then notify the Office within timeframes established by the Office and include the information specified in paragraph (b) of this section.

(5) Upon resolution of a complaint after an offset has been made, the State with the order must notify the submitting State of its decision promptly.

(6) When an administrative review is conducted in the State with the order, the submitting State is bound by the decision made by the State with the order.

(7) Based on the decision of the State with the order, the IV-D agency in the submitting State must take steps to refund any excess amount to the noncustodial parent promptly.

(8) In computing the arrearage collection performance level under §305.2(a)(4) of this chapter, if the case is referred to the State with the order for an administrative review, the collections made as a result of Federal tax refund offset will be treated as having been collected in full by both the submitting State and the State with the order.

(h) *Distribution of collections.* (1) Collections received by the IV-D agency as a result of refund offset to satisfy title IV-A or non-IV-A past-due support shall be distributed as past-due support as required in accordance with section 457 of the Act.

(2) Collections received by the IV-D agency in foster care maintenance cases shall be distributed as past-due

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support under § 302.52(b) (3) and (4) of this chapter.

(3) The IV-D agency must inform individuals receiving services under § 302.33 of this chapter in advance that amounts offset will be applied to satisfy any past-due support which has been assigned to the State and submitted for Federal tax refund offset.

(4) If the amount collected is in excess of the amounts required to be distributed under section 457 of the Act, the IV-D agency must repay the excess to the noncustodial parent whose refund was offset or to the parties filing a joint return within a reasonable period in accordance with State law.

(5) In cases where the Secretary of the U.S. Treasury, through OCSE, notifies the State that an offset is being made to satisfy non-IV-A past-due support from a refund based on a joint return, the State may delay distribution until notified that the unobligated spouse's proper share of the refund has been paid or for a period not to exceed six months from notification of offset, whichever is earlier.

(6) Collections from offset may be applied only to cases that were being enforced by the IV-D agency at the time the advance notice described in paragraph (e)(1) of this section was sent.

(i) *Payment of fee.* (1) A refund offset fee, in such amount as the Secretary of the U.S. Treasury and the Secretary of Health and Human Services have agreed to be sufficient to reimburse the Department of Treasury for the full cost of the offset procedure, shall be deducted from the offset amount and credited to the Department of Treasury appropriations which bore all or part of the costs involved in making the collection. The full amount offset must be credited against the obligor's payment record. The fee which the Secretary of the U.S. Treasury may impose with respect to non-IV-A submittals shall not exceed \$25 per submittal.

(2) The State IV-D agency may charge an individual who is receiving services under § 302.33(a)(1) (i) or (iii) of this chapter a fee not to exceed \$25 for submitting past-due support for Federal tax refund offset. The State must inform the individual in advance of the amount of any fee charged.

(3) Any State which requests the Office to send the advance written notice under paragraph (e)(1) of this section will be charged a fee, in an amount established by the Office in instructions, for printing and mailing of pre-offset notices. This fee shall be credited to the Health and Human Services appropriations which bore all or part of the costs involved in making the collection.

(j) Each State involved in a referral of past-due support for offset must comply with instructions issued by the Office.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19651, May 9, 1985; 50 FR 31719, Aug. 6, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 53 FR 47710, Nov. 25, 1988; 54 FR 32312, Aug. 4, 1989; 56 FR 8005, Feb. 26, 1991; 58 FR 41437, Aug. 4, 1993; 64 FR 6251, Feb. 9, 1999; 68 FR 25304, May 12, 2003; 68 FR 37980, June 26, 2003; 68 FR 53052, Sept. 9, 2003]

§ 303.73 Applications to use the courts of the United States to enforce court orders.

The IV-D agency may apply to the Secretary for permission to use a United States district court to enforce a support order of a court of competent jurisdiction against a noncustodial parent who is present in another State if the IV-D agency can furnish evidence in accordance with instructions issued by the office.

[61 FR 67241, Dec. 20, 1996, as amended at 68 FR 25304, May 12, 2003]

§ 303.100 Procedures for income withholding.

(a) *General withholding requirements.*

(1) The State must ensure that in the case of each noncustodial parent against whom a support order is or has been issued or modified in the State, and is being enforced under the State plan, so much of his or her income as defined in sections 466(b)(1) and (8) of the Act must be withheld, in accordance with this section, as is necessary to comply with the order.

(2) In addition to the amount to be withheld to pay the current month's obligation, the amount to be withheld must include an amount to be applied toward liquidation of overdue support.

(3) The total amount to be withheld under paragraphs (a)(1), (a)(2) and, if applicable, (f)(1)(iii) of this section may not exceed the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(4) In the case of a support order being enforced under the State plan, the withholding must occur without the need for any amendment to the support order involved or any other action by the court or entity that issued it other than that required or permitted under this section.

(5) If there is more than one notice for withholding against a single noncustodial parent, the State must allocate amounts available for withholding giving priority to current support up to the limits imposed under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). The State must establish procedures for allocation of support among families, but in no case shall the allocation result in a withholding for one of the support obligations not being implemented.

(6) The withholding must be carried out in full compliance with all procedural due process requirements of the State.

(7) The State must have procedures for promptly terminating withholding:

(i) In all cases, when there is no longer a current order for support and all arrearages have been satisfied; or,

(ii) At State option, when the noncustodial parent requests termination and withholding has not been terminated previously and subsequently initiated, and the noncustodial parent meets the conditions for an alternative arrangement set forth under paragraph (b)(3) of this section.

(8) The State must have procedures for promptly refunding to noncustodial parents amounts which have been improperly withheld.

(9) Support orders issued or modified in IV-D cases must include a provision requiring the noncustodial parent to keep the IV-D agency informed of the name and address of his or her current employer, whether the noncustodial parent has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information.

(b) *Immediate withholding on IV-D cases.* (1) In the case of a support order being enforced under this part that is issued or modified on or after November 1, 1990, the income of a noncustodial parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order, except that such income shall not be subject to withholding under this paragraph in any case where:

(i) Either the noncustodial or custodial parent demonstrates, and the court or administrative authority finds, that there is good cause not to require immediate withholding; or

(ii) A written agreement is reached between the absent and custodial parent, and, at State option, the State in IV-D cases in which there is an assignment of support rights to the State, which provides for an alternative arrangement.

(2) For the purposes of this paragraph, any finding that there is good cause not to require immediate withholding must be based on at least:

(i) A written determination that, and explanation by the court or administrative authority of why, implementing immediate income withholding would not be in the best interests of the child; and

(ii) Proof of timely payment of previously ordered support in cases involving the modification of support orders.

(3) For purposes of this paragraph, "written agreement" means a written alternative arrangement signed by both the custodial and noncustodial parent, and, at State option, by the State in IV-D cases in which there is an assignment of support rights to the State, and reviewed and entered in the record by the court or administrative authority.

(c) *Initiated withholding in IV-D cases.* In the case of income not subject to immediate withholding under paragraph (b) of this section, including cases subject to a finding of good cause or to a written agreement:

(1) The income of the noncustodial parent shall become subject to the withholding on the date on which the payments which the noncustodial parent has failed to make under a support order are at least equal to the support

payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of:

(i) The date on which the noncustodial parent requests that withholding begin;

(ii) The date on which the custodial parent requests that withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved; or

(iii) Such earlier date as State law or procedure may provide.

(2) The only basis for contesting a withholding under this paragraph is a mistake of fact, which for purposes of this paragraph means an error in the amount of current or overdue support or in the identity of the alleged noncustodial parent.

(d) *Notice to the noncustodial parent in cases of initiated withholding.* The State must send a notice to the noncustodial parent regarding the initiated withholding. The notice must inform the noncustodial parent:

(1) That the withholding has commenced;

(2) Of the amount of overdue support that is owed, if any, and the amount of wages that will be withheld;

(3) That the provision for withholding applies to any current or subsequent employer or period of employment;

(4) Of the procedures available for contesting the withholding and that the only basis for contesting the withholding is a mistake of fact;

(5) Of the information provided to the employer, pursuant to paragraph (e) of this section.

(e) *Notice to the employer for immediate and initiated withholding.* (1) To initiate withholding, the State must send the noncustodial parent's employer a notice using the standard Federal format which includes the following:

(i) The amount to be withheld from the noncustodial parent's income, and a statement that the amount actually withheld for support and other purposes, including the fee specified under paragraph (e)(1)(iii) of this section, may not be in excess of the maximum amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b));

(ii) That the employer must send the amount to the SDU within 7 business days of the date the noncustodial parent is paid, and must report to the SDU the date on which the amount was withheld from the noncustodial parent's income;

(iii) That, in addition to the amount withheld for support, the employer may deduct a fee established by the State for administrative costs incurred for each withholding, if the State permits a fee to be deducted;

(iv) That the withholding is binding upon the employer until further notice by the State;

(v) That the employer is subject to a fine to be determined under State law for discharging a noncustodial parent from employment, refusing to employ, or taking disciplinary action against any noncustodial parent because of the withholding;

(vi) That, if the employer fails to withhold income in accordance with the provisions of the notice, the employer is liable for the accumulated amount the employer should have withheld from the noncustodial parent's income;

(vii) That the withholding under this section shall have priority over any other legal process under State law against the same income;

(viii) That the employer may combine withheld amounts from noncustodial parents' income in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual noncustodial parent;

(ix) That the employer must withhold from the noncustodial parent's income the amount specified in the notice and pay such amount to the State disbursement unit within 7 business days after the date the income would have been paid to the noncustodial parent.

(x) That the employer must notify the State promptly when the noncustodial parent terminates employment and provide the noncustodial parent's last known address and the name and address of the noncustodial parent's new employer, if known.

(2) In the case of an immediate withholding under paragraph (b) of this section, the State must issue the notice to the employer specified in paragraph (e)(1) of this section within 2 business days of the date the State's computerized support enforcement system receives notice of income and income source from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State, or the date information regarding a newly hired employee is entered into the State Directory of New Hires, or if information is not received by the State's computerized support enforcement system or its State Directory of New Hires, within 15 calendar days of the date the support order is received if the employer's address is known on that date, or, if the address is unknown on that date, within 2 business days of the date the State's computerized support enforcement system receives notice of income and income source from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State, or the date information regarding a newly hired employee is entered into the State Directory of New Hires, or if information is not received by the State's computerized support enforcement system or its State Directory of New Hires, within 15 calendar days of locating the employer's address.

(3) In the case of initiated withholding, the State must send the notice to the employer required under paragraph (e)(1) of this section within 2 business days of the date the State's computerized support enforcement system receives notice of income and income source from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State, or the date information regarding a newly hired employee is entered into the State Directory of New Hires, or if information is not received by the State's computerized support enforcement system or its State Directory of New Hires, within 15 calendar days of the date specified in paragraph (c)(1) of this section if the employer's address is known on that date, or, within 2 business days of the date the State's computerized support

enforcement system receives notice of income and income source from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State, or the date information regarding a newly hired employee is entered into the State Directory of New Hires, or if information is not received by the State's computerized support enforcement system or its State Directory of New Hires, within 15 calendar days of locating the employer's address.

(4) If the noncustodial parent changes employment within the State when a withholding is in effect, the State must notify the noncustodial parent's new employer, in accordance with the requirements of paragraph (e)(1) of this section, that the withholding is binding on the new employer.

(f) *Interstate withholding.*

(1) The State law must require employers to comply with a withholding notice issued by any State.

(2) When an out-of-State IV-D agency requests direct withholding, the employer must be required to withhold funds as directed in the notice but to apply the income withholding laws of the noncustodial parent's principal place of employment to determine:

(i) The employer's fee for processing the withholding notice;

(ii) The maximum amount that may be withheld from the noncustodial parent's income;

(iii) The time periods to implement the withholding notice and to remit the withheld income;

(iv) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(v) Any withholding term or conditions not specified in the withholding order.

(3) In other than direct withholding actions:

(i) A State may require registration for orders from other States for purposes of enforcement through withholding only if registration is for the sole purpose of obtaining jurisdiction for enforcement of the order; does not confer jurisdiction on the court or agency for any other purpose (such as modification of the underlying or original support order or resolution of custody or visitation disputes); and does

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not delay implementation of withholding beyond the timeframes established in paragraphs (e)(2) and (e)(3) of this section.

(ii) Within 20 calendar days of a determination that withholding is required in a particular case, and, if appropriate, receipt of any information necessary to carry out withholding, the initiating State must notify the IV-D agency of the State in which the noncustodial parent is employed to implement interstate withholding. The notice must contain all information necessary to carry out the withholding, including the amount requested to be withheld, a copy of the support order and a statement of arrearages, if appropriate. If necessary, the State where the support order is entered must provide the information necessary to carry out the withholding within 30 calendar days of receipt of a request for information by the initiating State.

(iii) The State in which the noncustodial parent is employed must implement withholding in accordance with this section upon receipt of the notice from the initiating State required in paragraph (f)(3)(ii) of this section.

(iv) The State in which the noncustodial parent is employed must notify the State in which the custodial parent is receiving services when the noncustodial parent is no longer employed in the State and provide the name and address of the noncustodial parent and new employer, if known.

(4) The withholding must be carried out in full compliance with all procedural due process requirements of the State in which the noncustodial parent is employed.

(5) Except with respect to when withholding must be implemented which is controlled by the State where the support order was entered, the law and procedures of the State in which the noncustodial parent is employed shall apply.

(g) *Provision for withholding in all child support orders.* Child support orders issued or modified in the State whether or not being enforced under the State IV-D plan must have a provision for withholding of income. This requirement does not alter the requirement governing all IV-D cases in paragraph (a)(4) of this section that en-

forcement under the State plan must proceed without the need for a withholding provision in the order.

[57 FR 30682, July 10, 1992, as amended at 64 FR 6251, 6252, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

§ 303.101 Expedited processes.

(a) *Definition.* *Expedited processes* means administrative and judicial procedures (including IV-D agency procedures) required under section 466(a)(2) and (c) of the Act;

(b) *Basic requirement.* (1) The State must have in effect and use, in interstate and intrastate cases, expedited processes as specified under this section to establish paternity and to establish, modify, and enforce support orders.

(2) Under expedited processes:

(i) In IV-D cases needing support order establishment, regardless of whether paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following timeframes: (A) 75 percent in 6 months; and (B) 90 percent in 12 months.

(ii) In IV-D cases where a support order has been established, actions to enforce the support order must be taken within the timeframes specified in §§ 303.6(c)(2) and 303.100;

(iii) For purposes of the timeframe at § 303.101(b)(2)(i), in cases where the IV-D agency uses long-arm jurisdiction and disposition occurs within 12 months of service of process on the alleged father or noncustodial parent, the case may be counted as a success within the 6 month tier of the timeframe, regardless of when disposition occurs in the 12 month period following service of process.

(iv) *Disposition*, as used in paragraphs (b)(2)(i) and (iii) of this section, means the date on which a support order is officially established and/or recorded or the action is dismissed.

(c) *Safeguards.* Under expedited processes:

(1) Paternities and orders established by means other than full judicial process must have the same force and effect under State law as paternities and orders established by full judicial process within the State;

(2) The due process rights of the parties involved must be protected;

(3) The parties must be provided a copy of the voluntary acknowledgment of paternity, paternity determination, and/or support order;

(4) Action taken may be reviewed under the State's generally applicable administrative or judicial procedures.

(d) *Functions.* The functions performed by presiding officers under expedited processes must include at minimum:

(1) Taking testimony and establishing a record;

(2) Evaluating evidence and making recommendations or decisions to establish paternity and to establish and enforce orders;

(3) Accepting voluntary acknowledgment of paternity or support liability and stipulated agreements setting the amount of support to be paid;

(4) Entering default orders upon a showing that process has been served on the defendant in accordance with State law, that the defendant failed to respond to service in accordance with State procedures, and any additional showing required by State law; and

(5) Ordering genetic tests in contested paternity cases in accordance with § 303.5(d)(1).

(e) *Exemption for political subdivisions.* A State may request an exemption from any of the requirements of this section for a political subdivision on the basis of the effectiveness and timeliness of paternity establishment, support order issuance or enforcement within the political subdivision in accordance with the provisions of § 302.70(d) of this chapter.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19655, May 9, 1985, as amended at 50 FR 23958, June 7, 1985; 59 FR 66251, Dec. 23, 1994; 64 FR 6252, Feb. 9, 1999; 68 FR 25305, May 12, 2003]

§ 303.102 Collection of overdue support by State income tax refund offset.

(a) *Overdue support qualifying for offset.* Overdue support qualifies for State income tax refund offset if:

(1) There has been an assignment of the support obligation under section 408(a)(3) of the Act or section 471(a)(17)

of the Act or the IV-D agency is providing services under § 302.33 of this chapter, and

(2) The State does not determine, using guidelines it must develop which are generally available to the public, that the case is inappropriate for application of this procedure.

(b) *Accuracy of amounts referred for offset.* The IV-D agency must establish procedures to ensure that:

(1) Amounts referred for offset have been verified and are accurate; and

(2) The appropriate State office or agency is notified of any significant reductions in (including an elimination of) an amount referred for collection by State income tax refund offset.

(c) *Procedures for contesting offset and for reimbursing excess amounts offset.* (1) The State must establish procedures, which are in full compliance with the State's procedural due process requirements, for a noncustodial parent to use to contest the referral of overdue support for State income tax refund offset.

(2) If the offset amount is found to be in error or to exceed the amount of overdue support, the State IV-D agency must take steps to refund the excess amount in accordance with procedures that include a mechanism for promptly reimbursing the noncustodial parent.

(3) The State must establish procedures for ensuring that in the event of a joint return, the noncustodial parent's spouse can apply for a share of the refund, if appropriate, in accordance with State law.

(d) *Notice to custodial parent.* The IV-D agency must inform individuals receiving services under § 302.33 of this chapter, in advance that, for cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, amounts offset will be distributed under § 302.51(c) of this chapter.

(e) *Advance notice to noncustodial parent.* The State must send a written advance notice to inform the noncustodial parent of the referral for State income tax refund offset and of the opportunity to contest the referral.

(f) *Fee for certain cases.* The State IV-D agency may charge an individual who is receiving services under

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§ 302.33(a)(1) (i) or (iii) of this chapter a reasonable fee to cover the cost of collecting past-due support using State tax refund offset. The State must inform the individual in advance of the amount of any fee charged.

(g) Distribution of collections. (1) The State must distribute collections received as a result of State income tax refund offset:

(i) In accordance with section 457 of the Act and §§ 302.51 and 302.52 of this chapter; and

(ii) For cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, under § 302.51(c) of this chapter.

(2) If the amount collected is in excess of the amounts required to be distributed under paragraph (g)(1) of this section, the IV-D agency must repay the excess to the noncustodial parent whose State income tax refund was offset within a reasonable period in accordance with State law.

(3) The State must credit amounts offset on individual payment records.

(h) *Information to the IV-D agency.* The State agency responsible for processing the State tax refund offset must notify the State IV-D agency of the noncustodial parent's home address and social security number or numbers. The State IV-D agency must provide this information to any other State involved in enforcing the support order.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19655, May 9, 1985; 50 FR 31720, Aug. 6, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 54 FR 32312, Aug. 4, 1989; 56 FR 8005, Feb. 26, 1991; 64 FR 6252, Feb. 9, 1999; 68 FR 25305, May 12, 2003]

§ 303.104 Procedures for posting security, bond or guarantee to secure payment of overdue support.

(a) The State shall have in effect and use procedures which require that noncustodial parents post security, bond or give some other guarantee to secure payment of overdue support.

(b) The State must provide advance notice to the noncustodial parent regarding the delinquency of the support payment and the requirement of post-

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ing security, bond or guarantee, and inform the noncustodial parent of his or her rights and the methods available for contesting the impending action, in full compliance with the State's procedural due process requirements.

(c) The State must develop guidelines which are generally available to the public to determine whether the case is inappropriate for application of this procedure.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19656, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986]

§ 303.106 Procedures to prohibit retroactive modification of child support arrearages.

(a) The State shall have in effect and use procedures which require that any payment or installment of support under any child support order is, on and after the date it is due:

(1) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(2) Entitled as a judgment to full faith and credit in such State and in any other State; and

(3) Not subject to retroactive modification by such State or by any other State except as provided in paragraph (b) of this section.

(b) The procedures referred to in paragraph (a)(3) of this section may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

[54 FR 15764, Apr. 19, 1989]

§ 303.107 Requirements for cooperative arrangements.

The State must ensure that all cooperative arrangements:

(a) Contain a clear description of the specific duties, functions and responsibilities of each party;

(b) Specify clear and definite standards of performance which meet Federal requirements;

(c) Specify that the parties will comply with title IV-D of the Act, implementing Federal regulations and any other applicable Federal regulations and requirements;

(d) Specify the financial arrangements including budget estimates, covered expenditures, methods of determining costs, procedures for billing the IV-D agency, and any relevant Federal and State reimbursement requirements and limitations;

(e) Specify the kind of records that must be maintained and the appropriate Federal, State and local reporting and safeguarding requirements; and

(f) Specify the dates on which the arrangement begins and ends, any conditions for revision or renewal, and the circumstances under which the arrangement may be terminated.

[54 FR 30223, July 19, 1989]

§ 303.108 Quarterly wage and unemployment compensation claims reporting to the National Directory of New Hires.

(a) *What definitions apply to quarterly wage and unemployment compensation claims reporting?* When used in this section:

(1) *Reporting period* means time elapsed during a calendar quarter, e.g. January–March, April–June, July–September, October–December.

(2) *Wage information* means:

(i) The name of the employee;

(ii) The social security number of the employee;

(iii) The aggregate wages of the employee during the reporting period; and

(iv) The name, address (and optionally, any second address for wage withholding purposes), and Federal employer identification number of an employer reporting wages.

(3) *Unemployment compensation or claim information* means:

(i) Whether an individual is receiving, has received or has applied for unemployment compensation;

(ii) The individual's name and current (or most recent) home address;

(iii) The individual's social security number; and

(iv) The aggregate gross amount of compensation the claimant received during the reporting quarter.

(b) *What data must be transmitted to the National Directory of New Hires?*

The State shall disclose quarterly, to the National Directory of New Hires, wage and claim information as defined in paragraph (a) of this section that is collected pursuant to a State's unemployment compensation program referenced in Title III of the Act or pursuant to section 1137 of the Act.

(c) *What time frames apply for reporting quarterly wage and unemployment compensation claims data?*

The State shall report wage information for the reporting period no later than the end of the fourth month following the reporting period. The State shall report claim information for the reporting period no later than the end of the first month following the reporting period.

(d) *What reporting formats will be used for reporting data?*

The State must use standardized formats established by the Secretary of Health and Human Services for reporting wage and claim information.

[63 FR 36190, July 2, 1998; 68 FR 62161, Oct. 31, 2003]

§ 303.109 Procedures for State monitoring, evaluation and reporting on programs funded by Grants to States for Access and Visitation Programs.

(a) *Monitoring.* The State must monitor all programs funded under Grants to States for Access and Visitation Programs to ensure that the programs are providing services authorized in section 469B(a) of the Act, are being conducted in an effective and efficient manner, are complying with Federal evaluation and reporting requirements, and contain safeguards to insure the safety of parents and children.

(b) *Evaluation.* The State:

(1) May evaluate all programs funded under Grants to States for Access and Visitation Programs;

(2) Must assist in the evaluation of significant or promising projects as determined by the Secretary;

(c) *Reporting.* The State must:

(1) Report a detailed description of each program funded, providing the following information, as appropriate: service providers and administrators, service area (rural/urban), population

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served (income, race, marital status), program goals, application or referral process (including referral sources), voluntary or mandatory nature of the programs, types of activities, and length and features of a completed program;

(2) Report data including: the number of applicants/referrals for each program, the total number of participating individuals, and the number of persons who have completed program requirements by authorized activities (mediation—voluntary and mandatory, counseling, education, development of parenting plans, visitation enforcement—including monitoring, supervision and neutral drop-off and pickup) and development of guidelines for visitation and alternative custody arrangements; and

(3) Report the information required in paragraphs (c)(1) and (c)(2) of this section annually, at such time, and in such form, as the Secretary may require.

[64 FR 15136, Mar. 30, 1999]

PART 304—FEDERAL FINANCIAL PARTICIPATION

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AUTHORITY: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

EDITORIAL NOTE: Nomenclature changes to part 304 appear at 64 FR 6252, Feb. 9, 1999.

SOURCE: 40 FR 27166, June 26, 1975, unless otherwise noted.

§ 304.10 General administrative requirements.

As a condition for Federal financial participation, the provisions of part 74 of this title (with the exception of 45 CFR 74.23, Cost Sharing or Matching and 45 CFR 74.52, Financial Reporting) establishing uniform administrative requirements and cost principles shall apply to all grants made to States under this part.

[40 FR 27166, June 26, 1975, as amended at 61 FR 67241, Dec. 20, 1996]

§ 304.11 Effect of State rules.

Subject to the provisions and limitations of title IV-D of the Act and chapter III, Federal financial participation will be available in expenditures made under the State plan (including the administration thereof) in accordance with applicable State laws, rules, regulations, and standards governing expenditures by State and local child support enforcement agencies.

§ 304.12 Incentive payments.

(a) *Definitions.* For the purposes of this section:

Non-title IV-A collections means support collections, on behalf of individuals receiving services under this title, satisfying a support obligation which has not been assigned under section 408(a)(3) of the Act or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section.

Title IV-A collections means support collections satisfying an assigned support obligation under section 408(a)(3) of the Act or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section.

Total IV-D administrative costs means total IV-D administrative expenditures claimed by a State in a specified fiscal year adjusted in accordance with paragraphs (b)(4)(iii), (b)(4)(iv) and (b)(4)(v) of this section.

(b) *Incentive payments to States.* Effective October 1, 1985, the Office shall compute incentive payments for States